

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
EASTERN DIVISION**

Grady DeWayne Thomas,

Plaintiff,

v.

Commissioner George Little, *et al.*,

Defendants.

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Civil Action No. 1:07-cv-01117-JDB-egb

ORDER ON PLAINTIFF’S MOTION TO COMPEL DISCOVERY

Before the Court is Plaintiff’s Motion to Compel Discovery (Doc. 26). Defendants have filed their Response (Doc. 27). This Motion was referred to the Magistrate Judge on February 17, 2009 for determination pursuant to Rule 72 of the Federal Rules of Civil Procedure.

Plaintiff, Grady Dewayne Thomas is an inmate of the Tennessee Department of Correction, housed at Northwest Correctional Complex (NWCX) in Tiptonville, Tennessee. Plaintiff has filed a Complaint alleging that Defendants’ refusal to allow him to keep Dawah Book Shop prayer oil in his cell for use in his five daily prayers violates his rights under the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the First Amendment. He also claims that other inmates are allowed to keep prayer oil in their cells and that an officer confiscated his prayer oil and failed to return it, resulting in violations of his First Amendment, Equal Protection and Due Process rights. On April 28, 2008 Plaintiff filed his First Request for Production of Documents (“Requests”) and on June 9, 2008, Plaintiff filed his First Interrogatories to Defendant Tommy Mills and Request for Production of Documents

(“Interrogatories”). Plaintiff now seeks to compel Defendants to respond to Requests 1, 3, 4, 9 and 11 and to compel Defendant Tommy Mills to respond to Interrogatories 4-7. For the following reasons, Plaintiff’s Motion is GRANTED in part and DENIED in part.

Rule 26(b) of the Federal Rules of Civil Procedure states in relevant part, “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense . . . Relevant information need not be admissible at the trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.” The Supreme Court construes this rule broadly. *See, e.g., Hickman v. Taylor*, 329 U.S. 495 (1947). Here, Requests 1, 3, 4 and 9 ask for information about grievances, incident reports, disciplinary write-ups and sign-in/sign-out sheets involving prayer oil. Defendants generally object that these Requests are overly broad, burdensome and irrelevant. However, in their Response to Motion to Compel Discovery, Defendants’ sole support for these assertions is “Plaintiff does not a class a [sic] persons; he represents only himself.” Defendants offer no further elaboration on this point nor do they offer any other support for their objections. In reality, this information is relevant to Plaintiff’s claims regardless of the fact that he represents only himself. Plaintiff has demonstrated that the information sought goes to the issue of why Plaintiff’s access to prayer oil is restricted. Indeed, Defendants demonstrate the relevance of this information in their Motion for Summary Judgment that they recently filed, where they claim that the prayer oil must be restricted due to safety and security concerns. The Court, does find, however, that the period set forth in the Requests is too broad and must be limited. Because this information is relevant to the claims and defenses in this case, Defendants are ORDERED to Respond to Requests 1, 3, 4 and 9 of the April Requests, but only for the period of three years before Plaintiff’s Complaint was filed until the date Plaintiff filed his Complaint; i.e., June 12, 2004 to June 12, 2007.

Likewise, Interrogatories 4-7 seek information regarding incident reports and disciplinary reports relating to matches and baby oil. Defendants have again failed to provide any support for their contention that this information is irrelevant. Plaintiff has demonstrated that these items were sold in the commissary, yet are flammable and lubricating, which are defenses set forth by Defendants for restricting use of prayer oil and banning Dawah Book Shop prayer oil. While Plaintiff's arguments may ultimately prove unsuccessful; he has demonstrated that this information is relevant to his claims and he is certainly allowed to explore the merits of his claims and Defendants' defenses through discovery. Again, however, the time period will be limited, as it is currently too broad. Accordingly, Defendant Tommy Mills is ORDERED to respond to Interrogatories 4-7 of the June Interrogatories, for the period of three years before Plaintiff's Complaint was filed until the date Plaintiff filed his Complaint; i.e., June 12, 2004 to June 12, 2007.

Finally, Request 11 of the April Requests asks for "[a]ll other documents, items of evidence, or sworn or unsworn statements or affidavits that relate to the allegations made in plaintiff's complaint." The Court DENIES Plaintiff's Motion to Compel a response to that Request, as it asks for attorney work product, is overly broad in scope and time, vague and ambiguous, and unduly burdensome.

IT IS SO ORDERED.

s/ Edward G. Bryant
EDWARD G. BRYANT
UNITED STATES MAGISTRATE JUDGE

Date: February 27, 2009